

REMARKS

The Applicants appreciate the thoroughness with which the subject application has been examined. By this amendment, changes have been made in the specification and certain claims as indicated above to overcome the Examiner's objections and rejections and more concisely claim and describe the present invention. Claims 1-4, 6-9, 11 and 12 remain in the application for reconsideration by the Examiner. New claims 13 and 14 have been added. The Examiner's allowance of all pending claims is earnestly solicited.

The dependency of claim 4 has been amended to overcome the Examiner's objection and the rejection under Section 112, second paragraph. Claim 10 has been cancelled and thus the rejection under Section 112, first and second paragraphs has been overcome.

Claims 1-3, 5-9 and 12 stand rejected under Section 102(b) as anticipated by Curtis (4,514,995).

To further define the invention over the cited art, the Applicants have amended claim 1 as set forth above. In particular, claim 1 has been amended to include a reference to expansible slits and the collapsed condition of the sleeve is claimed in greater detail.

Curtis discloses at column 2, lines 4-10 that "this lower opening has a diameter which is smaller than the upper opening, and preferably the lower opening does not stretch as much as the remainder of the sleeve when a container is inserted therein. This prevents the beverage container from slipping out of the lower end of the sleeve." At column 3 lines 66 and 67, "the diameter of the opening 16 [the bottom opening as depicted in Figure 1] is substantially less than the diameter of the remaining portions of the sleeve." At column 4, lines 5 and 6, "the opening 16 prevents the beverage container from slipping through the sleeve." At column 4 lines 38-43, "The bottom portion 15 extends inwardly beneath the outer peripheral portion of the glass 20 (FIG. 4) and the non-elastic lower selvage opening 16 prevents slipping of the glass 20 through the cover 10. The bottom portion 15 further provides a coaster on which the glass 20 sits."

These multiple references clearly demonstrate that the beverage container cannot be received within Curtis's sleeve through the first or the second opening as claimed by the Applicants. Thus on this basis alone the invention as set forth in amended claim 1 should be allowable.

To further patentably distinguish the invention over the prior art, claim 1 has been revised to claim that in the closed condition the sleeve is deformable to a flattened configuration. Support for this amendment is found in Figure 4 and the associated text at paragraph [0022].

Claim 1 has also been amended to refer to “a plurality of expansible slits therein [within the expansible sleeve]. Curtis at column 1, lines 30 and 31 refers to a cover constructed from polyurethane foam, but notes that such covers are bulky and have limited stretchability. Clearly the Applicants invention as presented in the claims of the present application have overcome this limitation. To overcome this “limited stretchability,” the Applicants slits are expanded to an open condition allowing the diameter of the sleeve to expand to permit the sleeve to conform to the container sidewalls.

Although Christiansen has not been cited against claim 1, the Applicants suggest that neither the Curtis nor the Christiansen reference, independently or in combination, disclose the elements of Applicants amended claim 1. Curtis discloses an elongated thread material for his beverage container cover and while Christiansen discloses the use of a foam neoprene material, he does not disclose elements of claim 1, including, but not limited to, the expansible slits in the sleeve having an open condition allowing the sleeve to conform to the sidewalls of the container, and a collapsed state wherein the slits are in a closed condition. Instead, Christiansen relies on “the profile between the ears [reference characters 24 and 26 in Figure 1] allows beverage containers of different sizes to be used”

There is no basis for combining Curtis and Christiansen since neither discloses, suggests nor motivates the combination, especially since Curtis uses a thread material and Christiansen uses a solid material.

Rejected claims 2-12 depend directly or indirectly from claim 1. Claims 2, 3, 4, 6-9, 11 and 12 have been amended to comport with the revisions to claim 1 from which they depend. The Applicants respectfully submit that these claims are allowable over the cited art as each presents patentably distinguishable features of the present invention

Claims 5 and 10 have been cancelled without prejudice. The Applicants reserve the right to prosecute these claims or similar claims in a continuing application. Cancellation of these claims is not to be construed as an admission as to the validity of the rejection or the pertinence of the cited art.

New dependent claim 13 has been added to claim the insulating foam material of the sleeve. Support for this claim is found in paragraph [0019] of the specification. This claim is patentably distinct from the cited references.

New claim 14 has been added as indicated above. This claim finds support in the specification at paragraphs [0020] through [0022] and in the various figures. This claim includes the feature of the "substantially non-expansible band region at the first opening" and "wherein a narrower region of the container is received within the passageway through the second opening, expanding the plurality of slits into an open condition such that the sleeve conforms to the sidewalls of the container, wherein insertion of the container into the sleeve continues until the band region exerts an inwardly directed force on the sidewall that prevents continued insertion." These features are not disclosed by Curtis, Christiansen or the combination of the two references.

The Applicants have attempted to comply with all of the points raised in the Office Action and it is believed that the remaining claims in the application are now in condition for allowance. In view of the foregoing amendments and discussion, it is requested that the Examiner's claim objections and rejections have been overcome. It is respectfully requested that the Examiner reconsider these rejections and objections and issue a Notice of Allowance for all the claims pending in the application.

The Applicants hereby petition for an extension of time of three months, to April 13, 2006, under the provisions of 36 C.F.R. 1.136. A check in the amount of \$510, payable to "Director of USPTO", is enclosed in payment of the extension fee.

If a telephone conference will assist in clarifying or expediting this Amendment, the Examiner is invited to contact the undersigned at the telephone number below.

Respectfully submitted,



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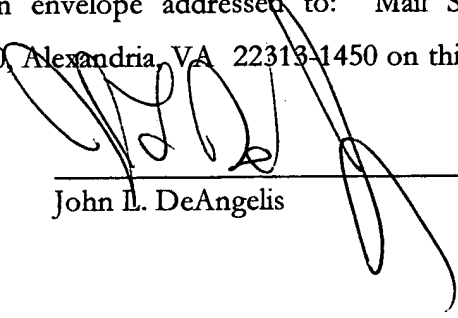
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CERTIFICATE OF MAILING

I HEREBY CERTIFY that the foregoing Amendment is being deposited with the U.S. Postal Service as first class mail in an envelope addressed to: Mail Stop Amendment, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450 on this 13th day of April 2006.



John L. DeAngelis